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NEGOTIABLE INSTRUMENTS—RAISED CHECKS—NEGLIGENCE OF DRAWER.—The plaintiffs were customers of the defendant bank with which they kept deposits for check. The plaintiffs drew certain checks on the bank, which were altered in amount by the payee, and the bank in good faith paid the amount as it appeared after the alteration. The plaintiffs drew the checks negligently so that blank spaces were left in front of the words and figures representing the amounts of the checks. The Negotiable Instruments Law of Kentucky provides that the bona fide holder of negotiable paper which has been altered may enforce payment according to the original tenor. The plaintiffs brought an action against the bank to recover for the wrongful payments. *Held*, the plaintiffs are entitled to recover the difference between the amounts of the checks as raised and the amounts of the checks as originally drawn. *Commercial Bank v. Arden & Fraley* (Ky.), 197 S. W. 951. See NOTES, p. 276.

REAL PROPERTY—EASEMENTS—SCOPE OF GRANT.—The grantee of a right of way crossed a stream, in the line of the easement, by means of a ford, for twenty-one years. In times of high water, it was very difficult, and occasionally impossible to ford the stream for a period of several days. Subsequently, the grantee built a bridge over the stream, which caused the water to overflow the plaintiff's premises during a period of high water. An action was brought against the grantee for damages. *Held*, the grantee is not liable. *Hammond v. Hammond* (Pa.), 101 Atl. 855.

It is a well established principle that the conveyance of an easement gives the grantee all such rights as are incidental or necessary to the reasonable and proper enjoyment of the easement. *Hathorn v. Stinson*, 10 Mc. 224, 25 Am. Dec. 228; *Maxwell v. McAtee*, 9 B. Mon. (Ky.) 20, 48 Am. Dec. 409. See MINOR, REAL PROP., § 100; JONES, EASEMENTS, § 816.

There are cases where alterations to property have been allowed, which were necessary to enable the grantee to enjoy a reasonable use of his easement. *Hutchins v. Lavery*, 78 Misc. Rep. 518, 139 N. Y. Supp. 957. The test laid down to determine the right to make a particular alteration is whether or not it is of such a nature as to result in the creation and substitution of a different servitude from the one which originally existed. Thus, an easement to carry water in an open ditch cannot be altered by placing a pipe line in the ground in lieu thereof. *Allen v. San José Land & Water Co.*, 92 Cal. 138, 28 Pac. 215, 15 L. R. A. 93. But the substitution of a one-inch pipe in place of a one-half-inch pipe will not be enjoined where no more water was used after the change than before. *Hutchins v. Lavery*, *supra*.

It is settled that no material change can be made in the easement, although the result would prove beneficial to both parties. *Allen v. San José Land & Water Co.*, *supra*.

But the mere lapse of time in failing to exercise a right which is incident to the reasonable and proper enjoyment of an easement does not have the effect of abandoning the right. Thus, a railroad was con-

structed over a right of way sixty years after the grant of the easement, in order that the purpose of the easement might be more fully carried out. *David v. Kingscote*, 6 M. & W. 173. In the instant case, the fact that the grantee has used the right of way for more than twenty years without a bridge was a strong indication that the erection of a bridge was not reasonably necessary to the enjoyment and use of the easement. But the fact that in times of high water the stream was practically impassable for several days at a time would seem to rebut the above presumption.

STATUTES—CONSTRUCTION OF TAXATION STATUTE—ALIMONY AS CONSTITUTING INCOME.—A decree, granting a divorce *a mensa et thoro* to a husband and wife, ordered the husband to pay the wife \$3,000 per month as alimony. It was sought to tax such alimony under the federal income tax law. *Held*, alimony is not income. *Gould v. Gould*, 38 Sup. Ct. 53.

The federal act concerning the taxation of incomes provides in part that, "the net income of a taxable person shall include gains, profits and incomes derived from salaries, wages, * * * or gains, profits and income derived from any source whatever, including the income from but not the value of property acquired by gift, bequest, devise or descent." Thus it will be seen that the real question to be determined is whether alimony is income within the meaning of the statute.

In the construction of statutes levying taxes, it is a well settled rule that the provisions of such statutes are not to be extended beyond the clear import of the language used, but in case of doubt they are to be construed most strongly against the government, and in favor of the tax-payer. *American Net and Twine Co. v. Worthington*, 141 U. S. 468; *Benziger v. U. S.*, 192 U. S. 38.

Alimony seems to occupy a unique place in the law. Its sole object is the provision of necessities for the support of the wife after the marriage bonds have been severed. *Romaine v. Chauncey*, 129 N. Y. 566, 26 Am. St. Rep. 544, 14 L. R. A. 712. It differs materially from a debt, and is rather a portion of the husband's estate to which the wife is equitably entitled; or, it may be regarded as a portion of the husband's current income or earnings. *Audubon v. Shufeldt*, 181 U. S. 575. Not only is it not a debt from the husband to the wife, but it cannot be subjected to the payment of the debts of the wife due third persons before the allowance of the alimony. *Romaine v. Chauncey*, *supra*. Hence, the allowance of alimony has no effect upon debts existing between the husband and wife prior to divorce. *Scott v. Scott*, 83 Conn. 634, 78 Atl. 314. And imprisonment for contempt of court for refusing to pay alimony is not imprisonment for debt. *Barclay v. Barclay*, 184 Ill. 375, 51 L. R. A. 351.

It has been held that the award of alimony is based on the ground of public policy, and that it cannot be diverted from the purpose of support without public injury. *Fickel v. Granger*, 83 Ohio St. 101, 93 N. E. 527, 32 L. R. A. (N. S.) 270. Although it seems inequitable that one receiving such a large sum of money for her support, as the wife in the